

## HORSE RACING COMMISSION

### MINUTES OF THE MEETING

Date: December 1, 2015 at 1:30 PM

Place: Central Kentucky Riding for Hope, 4185 Walt Robertson Road, Lexington, KY

Members Present: Chairman Robert M. Beck, Jr.; Vice Chairman Tracy Farmer; Commissioner Edward S. "Ned" Bonnie; Commissioner Elizabeth Lavin; Commissioner Burr Travis, Jr.; Commissioner Tom Conway; Commissioner Neil Howard; Commissioner Wade Houston; Commissioner Clayton Patrick; Commissioner John Phillips; Commissioner Steve H. Stewart; Commissioner Jerry Yon; and Commissioner Frank Jones, Jr.

Ex-officio Members Present: Secretary Ambrose Wilson, IV, Public Protection Cabinet; William Dexter, representing the Tourism, Arts and Heritage Cabinet; and Caroline Baesler, representing the Cabinet of Economic Development

KHRC Staff Participating: John T. Ward, Jr., Executive Director; Marc A. Guilfoil, Director of Racing; Susan B. Speckert, General Counsel; Greg Lamb, Director of Pari-Mutuel Wagering; Mary Scollay, DVM, Equine Medical Director; William Farmer, Chief Racing Veterinarian; Barbara Borden, Chief State Steward; Rich Williams, Chief Judge; and Jamie Eads, Director of Incentives and Development

Others Participating: Shannon Arvin, Stoll Keenon Ogden; Adam Suliman, Rock Gaming; Corey Johnsen, Kentucky Downs; William Thomason, Keeneland

Meeting called to order and roll call performed by Chairman Beck. A quorum was recognized.

<b>AGENDA ITEM</b>	<b>TRANSCRIPT PAGE NUMBER(S)</b>	<b>DISCUSSION / CONCLUSIONS / RECOMMENDATIONS</b>	<b>ACTION TAKEN</b>
<b>N/A</b>	5 – 6	Chairman Beck presented an update regarding <i>Appalachian Racing, LLC v. KHRC</i> , Floyd Circuit Court, Civil Action No. 15-CI-836. Chairman Beck announced that a restraining order had been granted by the Floyd Circuit Court prohibiting the Commission from considering or taking any action on Keeneland's license application to establish a Quarter Horse Race Track (Cumberland Run) in Corbin and to Offer Wagering on Historical Horse Races (Agenda Item No. 10). He noted that an emergency appeal of the restraining order had been filed with the Kentucky Court of Appeals; therefore, Agenda Item No. 10 would be deferred to the end of the meeting pending a ruling from the Court of Appeals.	Informational only. No action taken.

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<b>Tab 1 Approve Kentucky Racing Health &amp; Welfare Fund request for payment of unclaimed pari-mutuel tickets</b>	6 – 9	Ms. Eads presented a request dated November 9, 2015 from the Kentucky Racing Health & Welfare Fund (“KyRHWF”) for the transfer of funds from the unclaimed pari-mutuel tickets more than one-year old in the amount of \$1,946,785.84, less any claims received and advertising expenses, pursuant to KRS 230.374. The amount requested is the total of tickets sold to bettors between July 1, 2013 and June 30, 2014 and that remained unclaimed as of July 1, 2015. The KyRHWF has submitted the required documents and staff recommends approval of transfer of the requested funds.	Motion to approve by Commissioner Jones. Second by Commissioner Travis. Motion carried with no objections or abstentions.
<b>Tab 2 Approve Kentucky Sire Stakes Race Dates and Purse Distributions</b>	9 – 10	<p>Ms. Eads presented the proposed races dates for the 2016 Kentucky Sire Stakes to be held at The Red Mile. At its September 23, 2015 meeting, the Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders’ Incentive Fund Advisory Board (“Advisory Board”) approved the 2016 Kentucky Sire Stakes purse distributions and proposed two legs at \$15,000 each with a \$10,000 split and finals of \$175,000.</p> <p>The Red Mile has proposed the following races dates for two and three-year olds: Leg 1 will be held on August 7, 2016 and Leg 2 on August 14, 2016. The Finals will be held on August 21, 2016.</p> <p>Staff recommends approval.</p>	Motion to approve by Commissioner Jones. Second by Commissioner Lavin. Motion carried with no objections or abstentions.
<b>Tab 3 Approve payment to Kentucky Colt Association and County Fair Race Dates</b>	10 – 11	<p>Ms. Eads stated that by letter received November 23, 2015, the Kentucky Colt Association (KCA) requested payment of the 2015 standardbred uncashed ticket money in the amount of \$56,425.99, less any claims received. Staff has confirmed the amount requested and approval is recommended.</p> <p>Ms. Eads presented the proposed races dates for the 2016 Kentucky County Fairs as set out in the KCA’s letter received on November 23, 2015. She noted that the dates requested are the usual and customary dates for the County Fair races and there will be no pari-mutuel wagering</p>	Motion to approve by Commissioner Howard. Second by Commissioner Yon. Motion carried with no objections or abstentions.

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		at seven of the eight County Fairs, except there would be pari-mutuel wagering at the 2016 Marion County Fair. Staff recommends approval.	
<b>Tab 4 Approve Keeneland's Backside Improvement Fund request</b>	11 – 12	<p>Mr. Guilfoil presented a request dated October 23, 2015 from Keeneland requesting approval for the following backside improvement projects:</p> <ol style="list-style-type: none"> <li>1. ½ shed row replacements, Barn #19;</li> <li>2. Lighting upgrade, Barn #'s 29, 30, 38, and 39;</li> <li>3. Electric heater replacements in barn tack rooms;</li> <li>4. Dry valve replacements x2, Barn #'s 30, 38-40, and 42-49;</li> <li>5. New gas replacements in barn tack rooms; and</li> <li>6. Install storm pipe at Barn #'s 18 and 19.</li> </ol> <p>Staff has confirmed that Keeneland has \$334,514.54 in available backside improvement funds. KHRC staff has inspected the areas in the request and has confirmed the improvements are necessary and recommends approval. Upon completion of the projects, KHRC staff will inspect the repair work and confirm completion. Written documentation of the completed projects, final photographs and copies of invoices will be maintained on file at the KHRC office.</p>	Motion to approve by Commissioner Bonnie. Second by Commissioner Lavin. Motion carried with no objections or abstentions.
<b>Tab 5 Approve proposed amendments to 811 KAR 2:190: Kentucky Quarter Horse, Paint Horse, Appaloosa and Arabian Development Fund</b>	13– 15	<p>Ms. Eads presented the proposed amendments to 811 KAR 2:190 (Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund).</p> <p>Ms. Eads introduced Richard Wilcke, a current member of the National Racing Committee of the American Quarter Horse Association (AQHA), and noted that Mr. Wilcke was instrumental in the amending process and worked very closely with KHRC staff on the proposed amendments.</p> <p>Ms. Eads noted that during the 2015 legislative session, KRS 230.445, was amended to include the Paint Horse and that the proposed amendments are necessary to comply with those amendments to the enabling statute. She also noted that since the inception of the Fund in 2011 no funds had been disbursed because there had been no eligible races at a Kentucky</p>	Motion to approve by Commissioner Bonnie. Second by Commissioner Jones. Motion carried with no objections or abstentions.

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		racetrack. Ms. Eads presented a summary of the proposed amendments and stated that the staff recommended approval.	
<b>Tab 6 Approve Ellis Park's request to increase number of HHR Machines</b>	15 – 16	Mr. Lamb presented a request dated November 24, 2015 from Ellis Park for approval to expand the number of historical horse racing terminals by 48, bringing the total number of approved terminals from 252 to 300. He noted that Ellis Park anticipates the increase will allow them to bring new titles to their guests and increase their handle. The Nitro machines have been tested by Gaming Laboratories International (GLI) and approved by the Commission. KHRC staff will conduct an inspection of the new terminals and game titles once they are in place and before being offered to the public. Staff recommends approval.	Motion to approve by Commissioner Jones. Second by Commissioner Yon. Motion carried with no objections or abstentions.
<b>Tab 7 2016 ADW Conditions to Licensure</b>	16 – 17	<p>Ms. Speckert presented the Conditions of Advance Deposit Account Wagering (ADW) Licensing for 2016 (Conditions). The Conditions are essentially the same as the 2015 Conditions with the only substantive amendment being to add the language in Paragraph 6 in order to enable the KHRC to more easily obtain the data that is required under KRS 230.260.</p> <p>Each ADW provider was provided a draft of the Conditions and no comments were received. Staff recommends approval.</p>	Motion to approve by Commissioner Lavin. Second by Commissioner Yon. Motion carried with no objections or abstentions.
<b>Tab 8 2016 ADW License Applications</b>	17 – 20	<p>Ms. Speckert presented the 2016 the advance deposit account wagering (ADW) license applications and noted that a representative from each ADW applicant was present to answer any questions that may arise. There are six (6) renewal applicants for 2015: AmWest Entertainment; Ebet Technologies; Lien Games Racing; TVG Network; TwinSpires and Xpressbet.</p> <p>Approval for licensure for 2016 is recommended for all six (6) applicants conditioned upon full compliance with all applicable rules, regulations and the 2016 Conditions.</p>	Motion to approve the 2016 ADW license applications for AmWest Entertainment; Ebet Technologies; Lien Games Racing; TVG Network; TwinSpires; and Xpressbet by Commissioner Jones. Second by Commissioner Travis. Motion carried with no objections or

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		In response to an inquiry by Commissioner Travis concerning pending civil litigation in which AmWest is involved, Ms. Speckert stated that the Commission has been provided notification that those matters have been settled and information about the settlement. She noted that the terms of the settlement are under seal with the court.	abstentions.
<b>Tab 9 Turfway Park's Request to Offer Wagering on Historical Horse Races</b>	20 – 25	<p>On behalf of Turfway Park, Shannon Arvin with Stoll Keenon Ogden presented Turfway Park's application to offer wagering on historical horse races. She noted that the request was for 250 initial terminals and all games requested for approval today have previously been approved by the Commission. In response to an inquiry from Commissioner Lavin, Ms. Arvin stated that construction plans were underway and asked Mr. Suliman to address the timeframe for implementation. Mr. Suliman stated that as soon as selection of construction and design partners had been made that Turfway would be able to provide a more definitive timeframe for implementation.</p> <p>All required information has been submitted with the exception of the selection of a vendor; however, Turfway has requested approval of either Encore or RaceTech. The Commission has already approved the wagers and terminals of both vendors. All requested RaceTech wagers are based on ARCI Model Rule 004-155A (4)-(6) and all Encore wagers are based on ARCI Model Rule 004-105(T)(4) and pari-mutuel expert John Walzak has opined that wagers that fall within these Model Rules constitute pari-mutuel wagers on horse races. Satisfactory functionality reports from GLI are on file at the KHRC office.</p> <p>Staff recommends approval with the following conditions: 1) notification and staff approval of any changes in materials submitted in the application material; 2) final staff approval of the designated area including approval of all security equipment and procedures; 3) final staff approval that all applicable statutes, regulations, and conditions have</p>	<p>Motion to approve by Commissioner Travis. Second by Commissioner Jones. Motion carried with no objections or abstentions.</p>

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		been complied with; 4) receipt of the terms in the agreement with the applicable horsemen's organizations; and 5) final staff approval to open the designated area and begin offering wagering on historical horse races.	
<b>Tab 10 Keeneland's application to establish a Quarter Horse Race Track (Cumberland Run) in Corbin and to Offering Wagering on Historical Horse Races</b>	25 – 26  37	Chairman Beck reiterated that this agenda item would be deferred until last.  Ms. Speckert updated the Commission on the disposition of the Appalachian Racing, LLC v. KHRC motions pending before the Court of Appeals that Chairman Beck addressed at the start of the meeting. She reported that the motion for intermediate relief which would have immediately dissolved the temporary restraining order of the Floyd Circuit Court was denied and that the writ of prohibition was still currently pending.	No action taken due to pending temporary restraining order and pending ruling by the Court of Appeals on the writ of prohibition.
<b>Tab 11 Reports</b> <b>a. Thoroughbred Rulings</b> <b>b. Standardbred Rulings</b> <b>c. Veterinary Division</b> <b>d. Pari-Mutuel Wagering Division</b> <b>e. Regulations and Litigation</b>	26 – 32 26  26  26 – 29  29 – 30  31 – 32	a. Ms. Borden presented the thoroughbred ruling report. She noted there were no updates to the report as provided.  b. Mr. Williams presented the standardbred ruling report. He noted that there was one ruling that did not appear on the report yet and a suspension of one licensee for a fine that has not paid.  c. Dr. Farmer presented the the veterinary division report for Churchill Downs, Kentucky Downs, Keeneland and the 2 days of Breeders' Cup racing at Keeneland.  Dr. Scollay also reported on Breeders' Cup racing at Keeneland and commended the veterinary staff and independent laboratory for the success of their collaborative efforts.  d. Mr. Lamb presented the October and November 2015 wagering on historical horse racing handle reports for Kentucky Downs, Ellis Park	No action taken. Informational items only.

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	32	and the Red Mile. He noted that during October 2015 the historic racing handle was up, but down about 2.5% for November 2015. Keeneland had a positive handle for its regular meet plus additional money from Breeders' Cup and Churchill's regular meet handle was up approximately 9.9% over last year.  e. Status Report on Regulations and Litigation – For Informational Purposes Only.	
<b>Other Business</b>	32	Ms. Speckert recognized and congratulated Ms. Borden upon her receipt of the 2015 Peter Peterson Award. This award is awarded each year by ROAP to stewards who have made important contributions to the thoroughbred and quarter horse racing industries.	No action taken. Informational items only.
	33	Chairman Beck introduced Mr. Johnsen. Mr. Johnsen presented a check in the amount of \$222,000 to the Kentucky Thoroughbred Breeders' Incentive Fund. Mr. Johnsen recognized and acknowledged the Kentucky Horsemen's Benevolent and Protective Association and the Commission for their contributions in making the presentation of the funds possible.	
	33 – 35	Chairman Beck introduced and recognized Mr. Thomason and Keeneland for a very successful 2015 Breeders' Cup event. Mr. Thomason addressed the Commission and expressed Keeneland's appreciation.	
<b>Executive Session</b>	35 – 36	Chairman Beck requested a motion to go into executive session pursuant to KRS 61.810(1)(j) to deliberate in its role as a judicial or quasi-judicial body regarding individual adjudication and to KRS 61.810(1)(c) to discuss proposed or pending litigation against or on behalf of the agency.  <b><u>EXECUTIVE SESSION</u></b>	Motion by Commissioner Lavin. Second by Commissioner Yon.
	36	Chairman Beck requested a motion to return to public session.	Motion by Commissioner Travis. Second by

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	36 - 37	Upon return to public session, in the administrative action of <i>Harry Noble Wilson, Jr. v. Kentucky Horse Racing Commission</i> , the following motion was made by Commissioner Travis, "to adopt the recommended findings of fact, conclusions of law and recommended order of the hearing officer including the recommendation to affirm denial of Mr. Wilson's application for a 2014 license and to adopt the exceptions filed by the Kentucky Horse Racing Commission.	Commissioner Phillips. Motion carried with no objections or abstentions.  Motion by Commissioner Travis. Second by Commissioner Jones. Motion carried with no objections or abstentions.
<b>N/A</b>	37 – 51	Chairman Beck presented a highlight of the significant accomplishments by the Commission during Governor Beshear's administration. Chairman Beck announced his resignation as chair and as a member of the Commission effective December 7, 2015 and expressed his gratitude to Governor Beshear and those who had contributed to the Commission during his tenure.	No action taken. Informational items only.
<b>Adjournment</b>	51	Chairman Beck requested a motion for adjournment.	Motion to adjourn by Vice-Chairman Farmer. Second by Commissioner Lavin. Motion carried with no objections or abstentions.

**NOTE:** The Agenda materials and any amendments thereto, subject to any applicable exemptions, and the official Transcript are incorporated by reference as if set forth fully herein.